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RIGHTS OF THE CHILD

Written statement submitted by Friends World Committee for Consultation (Quakers), a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[19 March 1996]

1. By resolution 1995/79, co-sponsored by 69 States and adopted without a vote, the Commission on Human Rights decided to hold a second two-week session of the open-ended inter-sessional working group to draft an optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflict. This session of the working group took place from 15 to 26 January 1996. Its report is contained in document E/CN.4/1996/102.

2. We welcome the progress made on drafting this optional protocol, in particular, in relation to the prohibition on any kind of recruitment of persons under 18 years of age into non-governmental armed groups and the agreement reached on most of the preamble. However, we regret that no agreement was reached on draft article 1 setting 18 years as the minimum age for participation in hostilities.

3. We also regret that agreement could not be reached on the question of the minimum age for voluntary recruitment into government armed forces. To raise the minimum age for volunteers only as far as 16 years, as sought by a small group of countries, is unacceptable.

4. The purpose behind the draft optional protocol is to ensure that, in so far as possible, no one under the age of 18 years is involved in armed conflict. Eighteen years is the general age specified by the Convention on the Rights of the Child as marking the transition to adulthood. In addition, under article 38 of the Convention, as in article 77 (2) of Additional Protocol I of 1977 to the Geneva Conventions of 1949, States are to endeavour to give priority to the eldest when recruiting those in the 15 to 18 year age group. The special status of persons under 18 years of age is also recognized in international law both in relation to the prohibition on the application of the death penalty 1/ and in relation to employment or work "likely to jeopardize the health, safety or morals of young persons". 2/

5. The question therefore arises of whether there are valid reasons for deviating from this age for purposes of recruitment of volunteers into government armed forces. From our experience, we would submit that, on the contrary, there is every reason not to make such a distinction:

(a) In many cases the degree of "voluntariness" is open to question. Many forms of pressure lead young people to join armed forces;

(b) To permit younger volunteers often leads to disguised compulsory recruitment. A requirement of parental consent is not necessarily an adequate safeguard or may be completely irrelevant (particularly for unaccompanied children);

(c) The reasons for seeking to raise the minimum age to 18 years are not only associated with recruitment methods. It is always necessary to consider the physical, psychological and emotional impact on the young person, the teaching of military skills and attitudes, and the deprivation of opportunities to develop educational and social skills more appropriate for civilian life;

(d) The very presence of younger soldiers in the armed forces makes the prohibition on their participation in hostilities open to abuse. Although some Governments which currently accept volunteers below the age of 18 have sought to establish systems to prevent under-18s becoming involved in hostilities, no system is foolproof. As long as these "young soldiers" are in the armed forces there will be a temptation to use them and in any case they are liable to attack;

(e) If Governments reserve the right to recruit under-18s, the reality is that a ban on recruitment of under-18s by non-governmental groups is unlikely to be effective.

6. The question of involvement of children in armed conflict is also being addressed by the United Nations study on the impact of armed conflict on children. We welcome the opportunity to comment on this study occasioned by

the report to the Commission (E/CN.4/1996/110). The members of the NGO Sub-Group on Refugee Children and Children in Armed Conflict have been involved in the study in a number of ways, including assisting with field visits and regional consultations, and in various areas of research, and we appreciate the opportunities which NGOs have had in this respect. We hope that NGOs will also be consulted about the final report and recommendations to the General Assembly.

7. We welcome the study and anticipate that it will create a greater understanding of the issues, problems, and ways of addressing them. However, it has to be recognized that no measures will adequately protect children from, and make up for, the effects of armed conflict. It is, therefore, incumbent on Governments and the international community to take steps to reduce the likelihood of armed conflicts occurring in the first place. These steps include reducing the social and economic disparities which leave children and young people feeling hopeless and frustrated, without access to adequate education, skills training, means of livelihood or prospects for the future: factors which also specifically tend to lead to children and young people becoming participants in armed groups.

8. Some specific comments on the report:

(a) Whilst recognizing the importance of wide consultation, greater emphasis should be given to the substance of the issues and to recommendations for action;

(b) The study is about the impact of armed conflict on children: the focus should, therefore, be on children, with the role of women developing out of that, rather than the other way round;

(c) We welcome the special reference to refugee and displaced children but would like to see a greater emphasis on legal protection for them. Whilst physical protection is the highest priority, most refugee and internally displaced children no longer enjoy the legal protection of a national Government, particularly with respect to family separation. The need for greater international protection, particularly for unaccompanied children, should be emphasized;

(d) Children as "zones of peace" is a concept which we do not find helpful, as it can be seen to imply the physical separation of children and an attitude which treats them as objects, rather than a living, integral part of the community whose needs should be addressed in that context.

9. We urge the Commission to:

(a) Welcome the progress made on the drafting of the optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflict;

(b) Encourage States to accept a text which would establish clear, workable standards enabling the maximum protection of persons under the age of 18 years from participation in hostilities;

(c) Decide to hold a third (one week) session of the open-ended inter-sessional working group to complete the draft Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict;

(d) Welcome the substantial body of research and the findings engendered by the study on the impact of armed conflict on children, and encourage its widest dissemination in order to ensure that it can inform decision-making and programmes at all levels of national and international society.

Notes

1/ International Covenant on Civil and Political Rights, art. 6 (5), Convention on the Rights of the Child, art. 37 (a), Additional Protocol I, art. 77 (5) and Additional Protocol II, art. 6 (4) to the 1949 Geneva Conventions.

2/ International Labour Organization Convention No. 138 on Minimum Age, 1973, art. 3 (1).